H-0913.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2261**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 2nd Special Session**

**By** Representatives Shea, Reykdal, Taylor, Scott, and Van Werven

AN ACT Relating to protecting utility customers by modifying the authority of utilities to backbill customers for charges missed due to utility error; amending RCW 35.92.050, 54.16.040, and 80.28.080; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that there have been occasions when a utility has underbilled utility customers because of failures of equipment owned by a utility, such as an automated reading device on an electric meter. Though the underbilling may be small and unnoticeable to the utility customer, if the error is not discovered by the utility for years, the cumulative impact of the underbilling could result in a substantial amount becoming due and payable solely by the utility customer that had the misfortune to draw the faulty equipment. For customers on fixed or limited incomes, such as students and retirees, it can be a devastating burden to receive a utility bill that is multiple times greater than the amount usually budgeted. The legislature finds it inequitable that the current practice allows utilities to bill a customer for all of the past underbilling when that underbilling was caused by errors of equipment the utility owns, installs, and should be responsible to maintain in working order, or errors from utility processes that are solely the utilities' responsibility. The legislature finds that a utility is more likely to be diligent and prompt in discovering and rectifying billing errors, if the results of any billing errors are not borne by one customer, but instead jointly shared by all utility customers, as this would maximize the stake all customers have holding utilities accountable for excellent performance and service. Therefore, the legislature intends to modify the authority of utilities to backbill customers for charges missed due to utility error in such a way that any single customer is responsible for no more than one billing cycle worth of underbilling that results for utility error.

**Sec.**  RCW 35.92.050 and 2002 c 102 s 3 are each amended to read as follows:

(1) A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain and operate works, plants, facilities for the purpose of furnishing the city or town and its inhabitants, and any other persons, with gas, electricity, and other means of power and facilities for lighting, including streetlights as an integral utility service incorporated within general rates, heating, fuel, and power purposes, public and private, with full authority to regulate and control the use, distribution, and price thereof, together with the right to handle and sell or lease, any meters, lamps, motors, transformers, and equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof; authorize the construction of such plant or plants by others for the same purpose, and purchase gas, electricity, or power from either within or without the city or town for its own use and for the purpose of selling to its inhabitants and to other persons doing business within the city or town and regulate and control the use and price thereof.

(2)(a) A customer provided electricity or natural gas service by a city or town pursuant to the authority of this section is not liable for payment of any amounts not billed to the customer due to a billing error of the city or town, except for amounts properly owed for service that took place within the billing cycle immediately previous to the city or town's notice to the customer that the customer has been underbilled.

(b) For the purposes of this section, "billing error" includes error arising from: (i) Nonregistering, incorrectly registering, or crossed meters; (ii) other faulty equipment; and (iii) administrative error, including incorrect meter reads, clerical errors, incorrect billing calculations, and application of an incorrect daily billing factor.

**Sec.**  RCW 54.16.040 and 1955 c 390 s 5 are each amended to read as follows:

(1) A district may purchase, within or without its limits, electric current for sale and distribution within or without its limits, and construct, condemn and purchase, purchase, acquire, add to, maintain, conduct, and operate works, plants, transmission and distribution lines and facilities for generating electric current, operated either by water power, steam, or other methods, within or without its limits, for the purpose of furnishing the district, and the inhabitants thereof and any other persons, including public and private corporations, within or without its limits, with electric current for all uses, with full and exclusive authority to sell and regulate and control the use, distribution, rates, service, charges, and price thereof, free from the jurisdiction and control of the utilities and transportation commission, in all things, together with the right to purchase, handle, sell, or lease motors, lamps, transformers and all other kinds of equipment and accessories necessary and convenient for the use, distribution, and sale thereof: PROVIDED, That the commission shall not supply water to a privately owned utility for the production of electric energy, but may supply, directly or indirectly, to an instrumentality of the United States government or any publicly or privately owned public utilities which sell electric energy or water to the public, any amount of electric energy or water under its control, and contracts therefor shall extend over such period of years and contain such terms and conditions for the sale thereof as the commission of the district shall elect; such contract shall only be made pursuant to a resolution of the commission authorizing such contract, which resolution shall be introduced at a meeting of the commission at least ten days prior to the date of the adoption of the resolution: PROVIDED FURTHER, That it shall first make adequate provision for the needs of the district, both actual and prospective.

(2)(a) A customer provided electricity by a district pursuant to the authority of this section is not liable for payment of any amounts not billed to the customer due to an error of the district, except for amounts properly owed for service that took place within the billing cycle immediately previous to the district's notice to the customer that the customer has been underbilled.

(b) For the purposes of this section, "billing error" includes error arising from: (i) Nonregistering, incorrectly registering, or crossed meters; (ii) other faulty equipment; and (iii) administrative error, including incorrect meter reads, clerical errors, incorrect billing calculations, and application of an incorrect daily billing factor.

**Sec.**  RCW 80.28.080 and 2011 c 214 s 17 are each amended to read as follows:

(1)(a) Except as provided otherwise in this subsection, no gas company, electrical company, wastewater company, or water company may charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time, nor may any such company directly or indirectly refund or remit in any manner or by any device any portion of the rates or charges so specified, or furnish its product at free or reduced rates except to its employees and their families, and its officers, attorneys, and agents; to hospitals, charitable and eleemosynary institutions and persons engaged in charitable and eleemosynary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes.

For the purposes of this subsection (1):

(i) "Employees" includes furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such company; and

(ii) "Families" includes the families of those persons named in this proviso, the families of persons killed or dying in the service, also the families of persons killed, and the surviving spouse prior to remarriage, and the minor children during minority of persons who died while in the service of any of the companies named in this subsection (1).

(b) Water companies may furnish free or at reduced rates water for the use of the state, or for any project in which the state is interested.

(c) Gas companies, electrical companies, wastewater companies, and water companies may charge the defendant for treble damages awarded in lawsuits successfully litigated under RCW 80.28.240.

(2) No gas company, electrical company, wastewater company, or water company may extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are regularly and uniformly extended to all persons and corporations under like circumstances.

(3)(a) A customer of a gas company or electrical company is not liable for payment of any amounts not billed to the customer due to an error of the electrical or gas company, except for amounts properly owed for service that took place within the billing cycle immediately previous to the company's notice to the customer that the customer has been underbilled.

(b) For the purposes of this section, "billing error" includes error arising from: (i) Nonregistering, incorrectly registering, or crossed meters; (ii) other faulty equipment; and (iii) administrative error, including incorrect meter reads, clerical errors, incorrect billing calculations, and application of an incorrect daily billing factor.

**--- END ---**